

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2010-26-T**

IN RE:

Application of Merit Transport,  
Incorporated for a Class C (Charter )  
Certificate of Public Convenience  
and Necessity for Operation of Motor  
Vehicle Carrier

**PETITION  
TO  
INTERVENE**

TO: PUBLIC SERVICE COMMISSION

Carrie A. Fox, Attorney for the Petitioner Pee Dee Regional Transportation Authority  
herein, would respectfully show unto the Commission as follows:

**FACTS**

1. Pee Dee Regional Transportation Authority (hereinafter “PDRTA”) is a regional transportation authority organized pursuant to South Carolina Code of Laws § 58-25-10 et seq and existing pursuant to the laws of the State of South Carolina.
2. PDRTA is exempt by statute from Public Service Commission jurisdiction. See South Carolina Code Ann. § 58-5-30.
3. PDRTA operates Non-Emergency Medical Transportation (hereinafter “NEMT”)<sup>1</sup> and other regional transportation services in Chesterfield, Marlboro, Marion, Dillon, Darlington, Florence, Horry and Georgetown counties.

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<sup>1</sup> Certain Medicaid eligible individuals who demonstrate that they cannot access medical care due to a lack of transportation may be eligible to be transported to and from medical services by an approved provider.

4. Upon information and belief, the Applicant, Merit Transport, Inc., (hereinafter Merit Transport”) in its original application to the Public Service Commission filed on January 11, 2010, applied for a Class C (Charter) certificate authorizing multi-county operation.

5. Upon information and belief, Merit Transport intends to provide NEMT based upon its application charges for service for “Medical, Health and Human Services, Subject to negotiations with contractors per county.”

6. Upon information and belief, Merit Transport intends to provide NEMT and charter services to the following counties named in its January 11, 2010 application: Horry, Georgetown, Marion, Florence, Williamsburg, Dillon, Marlboro, Chesterfield, Berkeley, Charleston, and Dorchester.

7. Upon information and belief, PDRTA, Coast RTA, Williamsburg Transit and at least twenty-two (22) transportation providers currently serve the six county area identified in Share Care’s Amended Application for Class C (Charter) Certificate of Public Convenience and Necessity.

8. Upon information and belief, the current number of passenger trips per day being provided for NEMT clients is approximately 715.

9. PDRTA’s current daily capacity (number of passengers it can carry at one time) is One Thousand Four Hundred Seventy-five (1,475), comprised of available seating on:

- a. Fifty-seven (57) 14-passenger vehicles;
- b. Twenty-four (24) 18-passenger vehicles;
- c. Eleven (11) 20-passenger vehicles; and,
- d. Five (5) additional minivans available to transport twenty-five (25) passengers or five (5) wheelchair clients.

10. While PDRTA is exempt from Public Service Commission jurisdiction pursuant to South Carolina Code Ann. § 58-5-30,:

- a. All PDRTA drivers meet and/or exceed the requirements set forth in South Carolina Code Ann. Regs. § 103-133(6)(A), § 103-133 (4), and § 103-133(7);
- b. All PDRTA vehicles meet and/or exceed the applicable requirements set forth in South Carolina Code Ann. Regs. § 103-133 (6)(B) and § 103-133(7);
- c. All PDRTA vehicles meet and/or exceed the Vehicle Maintenance Requirements set forth in South Carolina Code Ann. Regs. § 103-133(6)(C);
- d. PDRTA complies with and/or exceeds the Drug Testing Requirements set forth in South Carolina Code Ann. Regs. § 103-133(6)(D); and,
- e. PDRTA complies with and/or exceeds the Schedule of Minimum Insurance Limits set forth in South Carolina Code Ann. Regs. § 103-133(6)(F).

#### **PUBLIC CONVENIENCE AND NECESSITY**

11. PDRTA opposes Merit Transport's Application for Class C (Charter) Certificate and maintains that the public convenience and necessity is already being served in the area identified by Merit Transport in its Application for Certificate of Public Convenience and Necessity. See South Carolina Ann. § 58-23-330 and South Carolina Ann. Regs. § 103-133.

12. PDRTA has ample empty seats available on its fleet of vehicles to transport ambulatory and wheelchair passengers in counties identified by Merit Transport's Application for Class C (Charter) Certificate of Public Convenience and Necessity.

13. PDRTA, with its highly trained drivers and ample fleet of vehicles to transport both ambulatory and wheelchair passengers, fulfills the public convenience and necessity in counties

identified by Merit Transport's Application for Class C Charter Certificate of Public Convenience and Necessity.

14. Upon information and belief, in addition to PDRTA, two regional transportation authorities and twenty-two (22) other providers collectively satisfy the public convenience and necessity in Horry, Charleston, Georgetown, Marion, Florence, Williamsburg, Dillon, Marlboro, Chesterfield, Berkeley, Charleston, and Dorchester Counties.

**FIT, ABLE & WILLING CRITERIA, S.C. REGS. §103-133(4), §103-133(6), § 103-133(7)**

15. PDRTA maintains that the Application of Merit Transport for Class C (Charter) Certificate of Public Convenience and Necessity for Operation of Motor Vehicle does not contain ample information that is determinative of the Applicant's fitness, ability, and willingness to operate NEMT and/or charter vehicles, as prescribed in South Carolina Code Ann. Regs. § 103-133(4), §103-133(6), and § 103-133(7); rather it merely represents that the Applicant "understands" certain requirements:

- a. As to "fitness," Merit Transport has not demonstrated that it is familiar with all statutes and regulations governing for-hire motor carrier operations in South Carolina;
- b. As to "ability," Merit Transport has not demonstrated that it has purchased leased, or obtained the necessary equipment to provide the service for which it is applying;
- c. Given discrepancies in whether Merit Transport is both "Fit" and "Able" as described in South Carolina Code Ann. Regs. § 103-133(4), §103-133(6), and § 103-133(7), Merit Transport has not demonstrated it meets the criteria for "Willing" as described in South Carolina Code Ann. Regs. §103-133(4), § 103-133(6), and § 103-133(7);
- d. Merit Transport has not demonstrated that it meets the minimum standards required by South Carolina Code Ann. Regs. § 103-133(4), (6), and/or (7);

- e. Merit Transport has not demonstrated that its vehicles meet and/or exceed the Vehicle Requirements set forth in South Carolina Code Ann. Regs. § 103-133(6)(B);
- f. Merit Transport has not demonstrated that its vehicles meet and/or exceed the Vehicle Maintenance Requirements set forth in South Carolina Code Ann. Regs. § 103-133(6)(C);
- g. Merit Transport has not demonstrated that it complies with and/or exceeds the Drug Testing Requirements set forth in South Carolina Code Ann. Regs. § 103-133(6)(D); and,
- h. Merit Transport has not demonstrated that it complies with the coverage amounts prescribed by the Schedule of Minimum Insurance Limits set forth in South Carolina Code Ann. Regs. § 103-133(6)(F);

**WHEREFORE,** Petitioner PDRTA prays that the Commission issue an Order:

- a. Allowing PDRTA to intervene in the proceedings initiated by Merit Transport's Application for Class C (Charter) Certificate of Public Convenience and Necessity for Operating Motor Vehicle Carrier;
- b. Allowing PDRTA to conduct discovery consistent with South Carolina Code Ann. Regs. §§ 103-832, 103-833, 103-834, and 103-835;
- c. Setting a hearing to determine Merit Transport's fitness, ability, and willingness as defined in South Carolina Code Ann. Regs. § 103-133 and referenced in South Carolina Code Ann. § 58-23-330;
- d. Setting a hearing to determine whether public convenience and necessity (referenced in South Carolina Code Ann. § 58-23-330 and South Carolina Code Ann. Regs. § 103-133) is already established in Merit Transport's proposed service area;
- e. Denying the Application of Merit Transport. for a Class C (Charter) Certificate of Public Convenience and Necessity for Operation of Motor Vehicle Carrier; and
- f. Providing for any and all other relief deemed just and proper by the Commission.

AIKEN, BRIDGES, ELLIOTT, TYLER  
& SALEEBY, P.A

S/CARRIE A. FOX

CARRIE A. FOX

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Florence, South Carolina  
February 11, 2010

ATTORNEYS FOR PETITIONER

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
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**CERTIFICATE OF SERVICE**

This is to certify that I have this date served one (1) copy of the **PETITION TO INTERVENE** in the above-reference matter to the persons named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Scott W. Higbee, Owner  
A Transportation, LLC  
607 Jefferson Way  
Conway, SC 29526

Brenda L. Bishop, Owner  
Carolina Health Transport, LLC  
P. O. Box 1233  
Little River, SC 29566

Lawrence Hisko  
L.H. Transportation Services, Incorporated  
d/b/a DocRide and Grand Strand Shuttle  
368-A Jesse Street  
Myrtle Beach, SC 29579

William C. Burch, III  
Merit Transport, Incorporated  
P. O. Box 2249  
Myrtle Beach, SC 29578

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1401 Main Street, Suite 900  
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Dino Carugno  
SCM Transportation, LLC  
3704 Chapel Lane  
Myrtle Beach, SC 29588

Rory Ellinsky, Owner  
Tropical Transportation, LLC  
4506 Poinsett Street, Unit B  
N. Myrtle Beach, SC 29582

Janice Baroody  
Pee Dee Regional Transportation Authority  
313 South Stadium Road  
Florence, SC 29506

John J. Pringle, Jr., Counsel  
Ellis, Lawhorne & Sims, P.A.  
P. O. Box 2285  
Columbia, SC 29202

**Hand Delivered**

Samuel F. Arthur III, Esquire

s/Carrie A. Fox  
CARRIE A. FOX

February 11, 2010  
Florence, South Carolina